

AMENDED IN SENATE APRIL 27, 2005

**SENATE BILL**

**No. 760**

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**Introduced by Senator Lowenthal**

February 22, 2005

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An act to add Section 1745 to the Harbors and Navigation Code, relating to ports.

LEGISLATIVE COUNSEL'S DIGEST

SB 760, as amended, Lowenthal. Ports: congestion relief: security enhancement: environmental mitigation: user fee.

(1) Existing law regulates the operation of ports and harbors.

This bill would impose on each shipping container processed in the Port of Los Angeles ~~and or~~ the Port of Long Beach a fee of \$30 per twenty-foot equivalent unit (TEU), payable ~~to the port~~ by the marine terminal operator processing the container *to the port where the marine terminal is located*.

The bill would require ~~the ports~~ *each port* to retain  $\frac{1}{3}$  of the funds derived from imposition of the fee and transmit the remaining  $\frac{2}{3}$  in the amount of  $\frac{1}{2}$  to the California Transportation Commission and  $\frac{1}{2}$  to the South Coast Air Quality Management District.

*The bill would require each port to use the funds retained as specified above exclusively for the purpose of funding projects to improve the security of the port, including the screening of shipping containers, and to fund the administrative costs for implementing this program.*

*The bill would require each port, in selecting projects for funding, to consult with the United States Coast Guard, the federal Department of Homeland Security, the Office of Homeland Security, and other state and federal agencies that may assist the ports in determining*

*which projects are best suited to protecting the ports and their surrounding communities.*

The bill would require the commission to use the funds received under these provisions to alleviate congestion on the highways serving the ports by improving the rail system that transports shipments from and to those ports and the on-dock rail facilities at those ports.

The bill would prohibit the commission from using the funds to construct, maintain, or improve highways.

The bill would require the commission to consult with the transportation commissions for the Counties of Los Angeles, Orange, Riverside, San Bernardino, and Ventura in the process for selecting projects for funding.

~~The bill would require the ports to use the funds retained as specified above exclusively for the purpose of funding projects to improve the security of the ports, including the screening of shipping containers.~~

~~The bill would require the ports, in selecting projects for funding, to consult with the United States Coast Guard, the federal Department of Homeland Security, the Office of Homeland Security, and other state and federal agencies that may assist the ports in determining which projects are best suited to protecting the ports and their surrounding communities.~~

The bill would require the South Coast Air Quality Management District to use the funds ~~receive~~ *received* under these provisions to mitigate environmental pollution caused by the movement of cargo to and from the ports via commercial motor vehicles, ocean-going vessels, and rail, *and for the administration of this program.*

The bill would ~~authorize~~ *limit* projects funded by the district ~~to be limited to~~ reducing emission from sources located at the ports, to include replacing highly-polluting engines with cleaner engines and retiring the engines that have been replaced, assisting the ports with implementing or enhancing ~~the use of cold-iron technology~~ *technologies that reduce emissions from vessels while docked at marine terminals*, and other projects that the district determines reduce emissions from sources located at the ports.

The bill would establish a state-mandated local program by imposing these additional duties upon the ports *and the district.*

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.~~

~~Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

*(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1745 is added to the Harbors and  
2 Navigation Code, to read:

3 1745. (a) The Legislature hereby finds and declares all of the  
4 following:

5 (1) There is a need to mitigate the enormous burden imposed  
6 on the highway transportation system serving the Ports of Los  
7 Angeles and Long Beach by the overland movement of cargo  
8 shipped from and to those ports.

9 (2) Due to unanticipated growth at the ports and new federal  
10 security requirements that are applicable to those ports, it is  
11 necessary to enhance the security of the ports.

12 (3) The operation of the ports causes environmental pollution  
13 that requires mitigation.

14 (4) Accordingly, it is the intent of the Legislature to alleviate  
15 these burdens by imposing a fee on shipping containers  
16 processed through those ports and using the funds derived  
17 therefrom to do all of the following:

18 (A) Improve the rail system that serves as an alternative to  
19 shipping via the highway by commercial vehicle, including, but  
20 not limited to, the on-dock rail facilities at those ports.

21 (B) Enhance the security at the ports.

22 (C) Mitigate the environmental pollution caused by port  
23 operations.

(b) *For the purposes of this section, the following terms have the following meanings, unless the context clearly requires otherwise:*

(1) *“Marine terminal” means a facility that meets all of the following criteria:*

(A) *Is located on a bay or harbor.*

(B) *Is primarily used for loading containerized cargo onto, or unloading that cargo from, an ocean-going vessel.*

(C) *Contains a pier, wharf, slip, berth, or quay, or any combination of those.*

(3) *“Ocean-going vessel” means a self-propelled, waterborne vessel that is constructed or adapted for the carriage of containerized cargo on the open sea.*

(3) *“Operator” means a person or entity that owns, has an ownership interest in, leases, rents, operates, participates in the operation of, or uses a marine terminal. “Operator” does not include an entity that owns the land underlying the facility or owns the facility itself, if the entity is not involved in the operation of the facility.*

(c) *There is hereby imposed on each shipping container processed in the Port of Los Angeles and or the Port of Long Beach a fee of thirty dollars (\$30) per twenty-foot equivalent unit (TEU), payable to the port by the marine terminal operator processing the container to the port where the marine terminal is located.*

~~(e)~~

(d) *The Port of Los Angeles and the Port of Long Beach shall retain one-third of the funds received under subdivision (b) and shall transmit the remaining two-thirds on a quarterly basis as follows:*

(1) *One-half to the California Transportation Commission.*

(2) *One-half to the South Coast Air Quality Management District.*

~~(d) (1) The California Transportation Commission shall use the funds received under paragraph (1) of subdivision (e) to alleviate congestion on the highways serving the Ports of Los Angeles and Long Beach by improving the rail system that transports shipments from and to those ports and the on-dock rail facilities at those ports.~~

1     ~~(2) The funds received by the commission shall not be used to~~  
2 ~~construct, maintain, or improve highways.~~

3     ~~(3) In the process for selecting projects for funding under this~~  
4 ~~subdivision, the commission shall consult with the transportation~~  
5 ~~commissions for the Counties of Los Angeles, Orange, Riverside,~~  
6 ~~San Bernardino, and Ventura.~~

7     ~~(4) Projects that may be funded under this subdivision include,~~  
8 ~~but are not limited to, all of the following:~~

9     ~~(A) Rail grade separations to relieve highway congestion.~~

10    ~~(B) Expansion of on-dock rail facilities.~~

11    ~~(C) Other projects that facilitate the movement of cargo by rail~~  
12 ~~and thus alleviate congestion on highways serving the ports.~~

13    ~~(e) (1) The ports shall use the funds retained under subdivision~~  
14 ~~(e) (d) exclusively for the purpose of funding projects to improve~~  
15 ~~the security of the ports, including, but not limited to, the~~  
16 ~~screening of shipping containers, and to fund the administrative~~  
17 ~~costs for implementing this program.~~

18    ~~(2) In selecting projects for funding under this subdivision, the~~  
19 ~~ports shall consult with the United States Coast Guard, the~~  
20 ~~federal Department of Homeland Security, the Office of~~  
21 ~~Homeland Security, and other state and federal agencies that may~~  
22 ~~assist the ports in determining which projects are best suited to~~  
23 ~~protecting the ports and their surrounding communities.~~

24    ~~(f) (1) The California Transportation Commission shall use~~  
25 ~~the funds received under paragraph (1) of subdivision (d) to~~  
26 ~~alleviate congestion on the highways serving the Ports of Los~~  
27 ~~Angeles and Long Beach by improving the rail system that~~  
28 ~~transports shipments from and to those ports and the on-dock~~  
29 ~~rail facilities at those ports.~~

30    ~~(2) The funds received by the commission shall not be used to~~  
31 ~~construct, maintain, or improve highways.~~

32    ~~(3) In the process for selecting projects for funding under this~~  
33 ~~subdivision, the commission shall consult with the transportation~~  
34 ~~commissions for the Counties of Los Angeles, Orange, Riverside,~~  
35 ~~San Bernardino, and Ventura.~~

36    ~~(4) Projects that may be funded under this subdivision include,~~  
37 ~~but are not limited to, all of the following:~~

38    ~~(A) Rail grade separations to relieve highway congestion.~~

39    ~~(B) Expansion of on-dock rail facilities.~~

1 (C) Other projects that facilitate the movement of cargo by  
2 rail to alleviate congestion on highways serving the ports.

3 (g) (1) The South Coast Air Quality Management District  
4 shall use the funds received under paragraph (2) of subdivision  
5 (e) (d) to mitigate environmental pollution caused by the  
6 movement of cargo to and from the ports via commercial motor  
7 vehicles, ocean-going vessels, and rail, and to fund the  
8 administrative costs for implementing this program.

9 (2) Projects funded by the district under this subdivision shall  
10 be limited to reducing emission from sources located at the ports  
11 and may include, but need not be limited to, all of the following:

12 (A) Replacing high-polluting engines with cleaner engines and  
13 retiring the engines that have been replaced.

14 (B) Assisting the ports with implementing or enhancing the  
15 use of cold-iron technology technologies that reduce emissions  
16 from vessels while docked at marine terminals.

17 (C) Other projects that the district determines reduce  
18 emissions from sources located at the ports.

19 ~~SEC. 2.—If the Commission on State Mandates determines that~~  
20 ~~this act contains costs mandated by the state, reimbursement to~~  
21 ~~local agencies and school districts for those costs shall be made~~  
22 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
23 ~~4 of Title 2 of the Government Code.~~

24 SEC. 2. No reimbursement is required by this act pursuant to  
25 Section 6 of Article XIII B of the California Constitution because  
26 a local agency or school district has the authority to levy service  
27 charges, fees, or assessments sufficient to pay for the program or  
28 level of service mandated by this act, within the meaning of  
29 Section 17556 of the Government Code.